

**REMARKS/ARGUMENTS**

Petition is hereby made under the provisions of 37 CFR 1.136(a) for an extension of one month of the period for response to the Office Action. We enclose the Petition for Extension of Time form with respect to the prescribed fee.

The Examiner made the restriction requirement final and withdrew claims 20 to 33 from further consideration. The claims have been deleted from the application. The deletion of claims 20 to 33 is made without prejudice to applicants right to file a divisional or continuation application directed to such subject matter.

The Examiner rejected claims 1, 2, 5, 7 and 15 under 35 USC 102(b) as being anticipated by Rapp.

Applicants claim in claim 1 a snack food product comprising a shaped core of a coherent mass of scrambled eggs enrobed in an outer batter coating. Thus, essential to applicants claim is that the shaped core is formed of scrambled eggs.

The Rapp reference describes a freeze-thaw stable egg product and a process for preparing the product. The product comprises discrete pieces of egg bound together and covered with a batter coating. As clearly described in col. 2, ll 16 to 21, the freeze-thaw stable egg product internally has the appearance of scrambled eggs, but nowhere in the reference is there described a product which is scrambled eggs.

As can be seen from the description in Rapp, an egg mixture comprising egg and water-binding carbohydrate to impart freeze-thaw stability to the egg when cooked is cooked and then the cooked egg is subdivided into discrete pieces, when then are coated with a binder, shaped and coated with batter (see eg. Col. 3, lines 5 to 15). The Rapp et al reference does not describe any other procedure, including scrambling the eggs.

Accordingly, none of the claims is anticipated by Rapp et al and hence the rejection of claims 1, 2, 5, 7 and 15 under 35 USC 102(b) as being anticipated by Rapp et al, should be withdrawn.

The Examiner considered that claims 3, 4, 6, 8, 9 and 16 under 35 USC 103(a) as being unpatentable over Rapp et al. Each of these claims is dependent, directly or indirectly, on claim 1.

None of the comments made by the Examiner with respect to the features of those sub-claims address the fundamental distinction between the product of the present invention, as defined in claim 1, and the product described in Rapp et al.

By reason of their dependence on claim 1, it is submitted that claims 3, 4, 6, 8, 9 and 16 are patentable over Rapp et al and hence the rejection thereof under 35 USC 103(a) as being unpatentable over Rapp et al, should be withdrawn.

The Examiner rejected claims 10 to 14 under 35 USC 103(a) as being unpatentable over Rapp et al taken together with Heick. Each of these claims is dependent, directly or indirectly, on claim 1.

The Examiner relies on Heick et al for the disclosure of the use of cheese, skim milk and citric acid in scrambled eggs and other egg recipes. The product described in Heick et al is an egg and cheese food which comprises a continuous phase of cheese-containing material having discrete particles of cooked egg-containing material distributed therethrough.

This product is fundamentally different from the presence of small quantities of production assistance ingredients and particles in a coherent mass of scrambled eggs.

In any event, the Heick et al reference does not remedy the basis defers of Rapp et al discussed above and hence the rejection of claims 10 to 14

under 35 USC 103(a) as being unpatentable over Rapp et al taken together with Heick et al , should be withdrawn.

The Examiner rejected claims 18 and 19 under 35 USC 103(a) as being unpatentable over Rapp et al taken together with either one of EP 1,155,627 or WO 02/080703.

While WO 02/080703 described a liquid egg product containing added omega-3 fatty acids, EP 1,155,627 is concerned with a shell egg having a certain amount of omega-3 fatty acid. Even if such eggs were used to make scrambled eggs for use in the present invention, there would be no added omega-3 fatty acid, as required by claim 19

Neither of the secondary references addresses the fundamental distinction between the present invention and Rapp et al, discussed above, and hence the rejection of claims 18 and 19 under 35 USC 103(a) as being unpatentable over Rapp et al taken together with either one of EP 1,155,627 or WO 02/080703.

It is believed that this application is now in condition for allowance and early and favourable consideration and allowance are respectfully solicited.

Respectfully submitted,



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